



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

841 Chestnut Building
Philadelphia, Pennsylvania 19107



CERTIFIED MAIL
RETURN RECEIPT REQUESTED

MAY 01 1989

In Reply Refer To Mail Code: 3RC10

Therese M. Kurtze, Esquire
Venable, Baetjer and Howard
1800 Mercantile Bank and Trust Building
2 Hopkins Plaza
Baltimore, Maryland 21201

Re: Ellicott Machine Corporation
Docket No. TSCA-III-315

Dear Therese:

I have enclosed copies of the executed Consent Agreement, Settlement Conditions Document and Consent Order in this matter, the originals of which were filed with the Regional Hearing Clerk today.

Payment of the initial penalty of \$1,140 is due within 60 days of your receipt of this letter and should be made in the manner specified in the order.

Thank you for your cooperation.

Sincerely,

Elizabeth S. Spencer
Associate Regional Counsel

Enclosures

cc: Carole Dougherty



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

CERTIFIED MAIL
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Honorable Henry B. Frazier, III
Administrative Law Judge
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

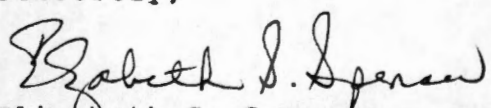
Re: Ellicott Machine Corporation
Docket No. TSCA-III-315

Dear Judge Frazier:

Enclosed for your use are true and correct copies of the Consent Agreement, Settlement Conditions Document, and Consent Order finalizing settlement of this matter, the originals of which were filed with the Regional Hearing Clerk today.

Thank you for your assistance.

Sincerely,


Elizabeth S. Spencer
Associate Regional Counsel

Enclosures

cc: w/enclosures
Therese M. Kurtze, Esquire
S. Canning (3RC00)
C. Dougherty (3HW42)

ELLICOTT MACHINE CORPORATION
DOCKET NO. TSCA-III-315
SETTLEMENT CONDITIONS DOCUMENT

Introduction

This Settlement Conditions Document (SCD) is part of the settlement of an administrative complaint issued by the Environmental Protection Agency (EPA) to Ellicott Machine Corporation, of Baltimore, Maryland (Respondent) for violations of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601 et seq., as implemented through the Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions, 40 C.F.R. Part 761 (PCB Rule). It is the goal of this document to set forth the tasks agreed to in settlement which go beyond the requirements of the PCB Rule.

The SCD, along with the Consent Agreement signed by the parties, the Consent Order signed by the Regional Administrator, and a letter of remittance to be issued by the Regional Administrator to the Respondent upon its successful completion of the tasks specified herein, constitute a Settlement With Conditions (SWC). Such a settlement is authorized by Section 16(a)(2)(C) of TSCA, 15 U.S.C. § 2615(a)(2)(C).

Pursuant to the Consent Agreement and Consent Order, Respondent has agreed to pay a penalty of \$11,400.00. The parties have agreed that \$10,260.00 of this penalty will be remitted if Respondent fully performs the settlement conditions set forth below and pays \$1,140.00 of the penalty within 60 days of its receipt of the Consent Order. If Respondent fails to comply fully with the SCD, or to pay the \$1,140 as directed, the entire amount of the penalty will become due.

The effective date of this document is the date it is signed by EPA. It will remain in effect until the tasks and actions required herein have been successfully completed or the entire amount of the penalty, together with interest and late penalty charges, if any, has been paid (the "Term of Performance").

SETTLEMENT CONDITIONS

1. Determination and Certification of Compliance with Conditions

A determination of compliance with the conditions set forth herein will be based upon the submittal by Respondent to the Office of Regional Counsel of copies of the records required by the SCD, and any facility inspections which Region III determines are necessary. EPA will determine the sufficiency of the submitted documentation. At the discretion of the Regional Counsel, other reasonable proof of compliance may be required.

Any notice, report, certification, data presentation or other document submitted by Respondent under or pursuant to this SCD, which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirement(s) of this SCD shall be certified by a responsible official of defendant. The term responsible official shall mean a responsible corporate officer. A responsible corporate officer means: (a) A president, secretary, treasurer or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or (b) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$35 million (in 1987 dollars when the Consumer Price Index was 345.3), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. The certification of the responsible official required by this paragraph of the SCD shall be in the following form:

"Based on my inquiry of the qualified person or persons directly responsible for obtaining or providing such information, I certify that the information contained in or accompanying this (fill in type of submission) is true, accurate and complete."

Signature
Title

2. Conditions

No later than January 31, 1991, Respondent shall have completed either one of the following sets of actions with respect to its PCB Transformer SN# 171364 which was the subject of EPA's administrative complaint:

a. Removal and lawful disposal of the PCB Transformer and replacement of it with a non-PCB Transformer. "Disposal" as used here expressly excludes any transfer that may result in its re-use as a PCB Transformer; or

b. Draining and refilling of the PCB Transformer sufficient to reclassify it as PCB-Contaminated Electrical Equipment under 40 C.F.R. § 761.30(a)(2)(v), with lawful disposal of the fluid so drained.

To document its performance of the above conditions, Respondent shall provide the following to EPA, Region III:

a. If Respondent has completed the set of actions described in sub-paragraph a. immediately above, then Respondent shall furnish EPA with:

(1) Name(s), address(es), and telephone number(s) of contractor(s) who performed removal and disposal;

(2) Transport and/or manifest documentation showing removal and disposal of the transformer oil and carcass;

(3) Name, address, and telephone number of vendor who supplied non-PCB transformer, as well as date of manufacture and type of dielectric fluid in this transformer; and

(4) Documentation of all expenditures of funds in connection with the herein actions, such as invoices or purchase orders.

b. If Respondent has completed the set of actions described in sub-paragraph b. immediately above, then Respondent shall furnish EPA with:

(1) Name(s), address(es), and telephone number(s) of contractor(s) who performed retrofilling operations and laboratory analyses;

(2) Date of each retrofill operation, date of subsequent PCB fluid analysis, results of PCB fluid analysis (including any quality control measures taken and type of analyses);

(3) Transport and/or manifest documentation showing removal/disposal of the transformer oil;

(4) Certified statement that the transformer has been in-service during the period between the retrofill and subsequent fluid analysis, under conditions that raise the temperature to at least 50° Centigrade (or such alternative method(s) as may be approved by the Director, Exposure Evaluation Division); and

(5) Documentation of all expenditures of funds in connection with the herein actions, such as invoices or purchase orders.

Submission of these documents with any certification required under this SCD shall be made to the following address:

Elizabeth S. Spencer
Assistant Regional Counsel (3RC10)
U.S. Environmental Protection Agency
841 Chestnut Building
Philadelphia, PA 19107

Attn: Docket No. TSCA-III-315

3. Compliance with the PCB Rule

Respondent shall at all times comply with the requirements of the PCB Rule, 40 C.F.R. Part 761.

4. Right of Entry

EPA may, at reasonable hours during the Term of Performance, enter Respondent's facility to inspect and take samples in order to confirm compliance with the PCB Rule or with the above conditions. This right of entry is in addition to any other such rights which may be available to the Agency under TSCA or other federal law.

5. Issuance of Letter of Remittance

Upon receipt of documentation submitted by Respondent pursuant to paragraph 2, EPA shall review that documentation and any required certification and make a determination of their sufficiency. If any deficiencies are noted, or if any further reasonable proof of compliance is deemed necessary by EPA, the required documents or other information shall be requested in writing. In any event, EPA's review and determination of sufficiency shall be completed without unreasonable delay, and the Respondent shall be notified of the determination promptly in writing. Any inspections carried out by or on behalf of EPA subsequent to the submission of documentation by Respondent also shall be completed so as not to unreasonably delay verification of compliance and issuance of a Letter of Remittance.

When EPA has determined that Respondent's tasks under this SWC document have been completed, EPA shall issue a Letter of Remittance. The Letter shall state that the Respondent's required tasks have been completed and that \$10,260.00 of the negotiated penalty has been remitted. EPA shall not withhold or unreasonably delay issuance of this Letter of Remittance.

Issuance of the Letter of Remittance shall terminate the Term of Performance under this SWC document and the associated Consent Agreement, and shall relieve the Respondent of any further obligations thereunder.

Date

4/4/89

Peter A. Bowe, President
Ellicott Machine Corporation

Date

4-26-89

Stanley L. Laskowski, Acting
Regional Administrator
EPA Region III

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

841 Chestnut Building
Philadelphia, Pennsylvania 19107



IN RE: :
: Docket No. TSCA-III-315
ELLICOTT MACHINE CORPORATION, :
Baltimore, Maryland, :
: CONSENT ORDER
: Respondent :

The undersigned accepts and incorporates into this Consent Order by reference the Preliminary Statement, Findings of Fact, and Conclusion of Law set forth in the foregoing Consent Agreement.

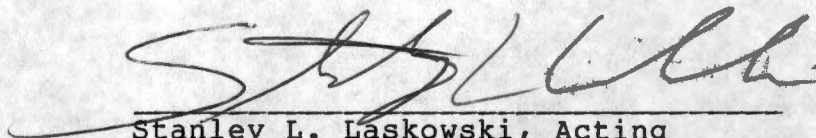
NOW THEREFORE, pursuant to 40 C.F.R. § 22.18(c), it is hereby ordered that Respondent pay a civil penalty of Eleven Thousand Four Hundred Dollars (\$11,400.00). Payment of Eleven Hundred and Forty Dollars (\$1,140.00) of this penalty shall be made by forwarding a cashier's or certified check payable to the Treasurer, United States of America, within 60 days of Respondent's receipt of this Order. Payment of the remainder of the penalty shall be made within 60 days of Respondent's receipt of a letter of non-remittance signed by the Regional Administrator. All such checks shall be delivered to the Regional Hearing Clerk, EPA Region III, P.O. Box 360515M, Pittsburgh, Pennsylvania 15251. At the same time payment is made, a photocopy of each check shall also be sent to the Regional Hearing Clerk, EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

The following notice concerns interest and late payment penalty charges that will accrue if the \$1,140.00 portion of the penalty, required to be paid within 60 days of receipt of this Order, or if the remainder of the penalty, required to be paid within 60 days of receipt of any subsequent letter of nonremittance issued in this action, is not paid as directed.

Pursuant to 31 U.S.C. § 3717, an executive agency is entitled to assess interest and penalties on debts owed to the United States. Interest will begin to accrue on a civil penalty if it is not paid as directed by any Consent Order or a subsequent letter of nonremittance. 4 C.F.R. § 102.13(b). Interest will be assessed at the rate of the United States Treasury tax and loan rate. 4 C.F.R. § 102.13(c). In addition, a penalty charge of six percent per year will be assessed on any portion of the debt which remains delinquent more than 90 days after payment is due.

However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due. 4 C.F.R. § 102.13(e).

4-26-89
Date


Stanley L. Laskowski, Acting
Regional Administrator

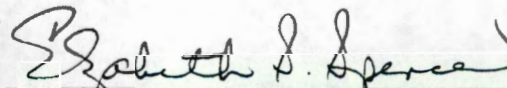
CERTIFICATE OF SERVICE

I hereby certify that on this date the originals of the foregoing Consent Agreement, Settlement Conditions Document and Consent Order were hand-delivered to the Regional Hearing Clerk, EPA Region III, and true and correct copies were sent registered mail, return receipt requested, to the following persons:

Honorable Henry B. Frazier, III
Administrative Law Judge (A-110)
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Therese M. Kurtze, Esquire
Venable, Baetjer and Howard
1800 Mercantile Bank & Trust Building
2 Hopkins Plaza
Baltimore, Maryland 21201

MAY 01 1989
Date


Elizabeth S. Spencer
Associate Regional Counsel